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Industries II, LP; Kinderhook Industries,  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL MONTGOMERY,

Plaintiff,

vs.

WAL-MART STORES, INC.;  
KINDERHOOK INDUSTRIES II, LP;  
KINDERHOOK INDUSTRIES, LLC;  
KINDERHOOK CAPITAL FUND II,  
LP; CRESTWOOD HOLDINGS, INC.;  
BERGAN, L.L.C.; JOHN ELMBURG;  
ROBERT ELMBURG; ERIC  
ELMBURG; ROCKY FLICK; HOME  
DEPOT U.S.A., INC.; and Does 1  
through 20, inclusive,

Defendants.

Case No. 12-CV-3057-JLS-DHB

**CERTIFICATE OF SERVICE**

JUDGE: Hon. Janis L. Sammartino  
CTRM: 3B

**CERTIFICATE OF SERVICE**

I am employed in the County of San Diego. I am over the age of eighteen years and not a party to the within entitled action. My business address is 701 B Street, Suite 1110, San Diego, CA 92101.

On March 25, 2013, I served the following document(s) described as:

**NOTICE OF MOTION AND MOTION OF DEFENDANTS  
KINDERHOOK CAPITAL FUND II, L.P., KINDERHOOK  
INDUSTRIES II, L.P., AND KINDERHOOK INDUSTRIES, LLC TO  
DISMISS OR, IN THE ALTERNATIVE, STAY**

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT  
OF DEFENDANTS KINDERHOOK CAPITAL FUND II, L.P.,  
KINDERHOOK INDUSTRIES II, L.P., AND KINDERHOOK  
INDUSTRIES, LLC'S MOTION TO DISMISS OR, IN THE  
ALTERNATIVE, STAY**

**DECLARATION OF LOUIS AURELIO IN SUPPORT OF  
DEFENDANTS KINDERHOOK CAPITAL FUND II, L.P.,  
KINDERHOOK INDUSTRIES II, L.P., AND KINDERHOOK  
INDUSTRIES, LLC'S MOTION TO DISMISS OR, IN THE  
ALTERNATIVE, STAY**

on the interested party(ies) in this action as follows:

**BY CM/ECF NOTICE OF ELECTRONIC FILING** by causing such document(s) listed above to be served through this Court's electronic transmission facilities via the Notice of Electronic Filing (NEF) and hyperlink, to the parties and/or their counsel who are determined this date to be registered CMECF Users set forth in the service list obtained from this Court on the Electronic Mail Notice List. The following are those who are currently on the list to receive email notices for this case:

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Elmburg and Rocky Flick

21 I declare that I am a member of the bar of this Court. I declare under penalty of  
22 perjury under the laws of the United States of America that the foregoing is true and  
23 correct. Executed this 25th day of March 2013 at San Diego, California.  
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25 s/Frank J. Polek

26 Frank J. Polek  
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